

# Notice of Allowability

Application No.

10/789,832

Examiner

Daniel Swerdlow

Applicant(s)

HAMACHER ET AL.

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to application filed 27 February 2007.
2. ☒ The allowed claim(s) is/are 1-14.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 06/17/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Mark Bergner, reg. no. 45,877 on 3 May 2007.

The application has been amended as follows:

In the claims, Claim 5 is amended as follows:

5. The method according to claim 1, wherein all method steps are implemented ~~according to~~ at least one of ~~a~~ a) in and b) on the hearing aid.

### **EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE**

2. The following is an examiner's statement of reasons for allowance:
3. Regarding Claim 1, US 2002/0037087 A1 to Allegro et al. discloses a hearing aid (Figure) with a signal identifier 8 that automatically classifies an acoustic situation and selects a program or parameter set best suited for that situation (para. 0024). Allegro further discloses a user input 11 for overriding the automatic program selection (para. 0027). However, Allegro does not disclose offering a group of setting configurations based on the auditory situation and interactively selecting a configuration from the group, as claimed. US patent 5,303,306 to Brillhart et al. discloses a hearing aid that allows a user to vary individual parameters in a preselected setting configuration (column 9, lines 6-15), but does not disclose interactively selecting a configuration from an automatically offered group, as claimed. US patent 4,972,487

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to Mangold et al. discloses a hearing aid (Fig. 2) with automatic program selection (column 3, lines 49-56) and a manual program control 18 (column 3, lines 13-15), but does not disclose interactively selecting a configuration from an automatically offered group, as claimed. US Patent 5,610,988 to Miyahara discloses a hearing aid (Figs. 1, 3) with manual control of parameters, but does not disclose interactively selecting a configuration from an automatically offered group, as claimed. Because the prior art does not disclose all elements of the claimed invention, Claim 1 is allowable.

4. Claims 2 through 7 are allowable due to dependence from Claim 1.
5. Claim 8 is essentially similar to Claim 1 and is allowable for the same reasons.
6. Claims 9 through 14 are allowable due to dependence from Claim 8.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Daniel Swerdlow  
Primary Examiner  
Art Unit 2615

ds

4 May 2007